

REMARKS

I. INTRODUCTION

Claims 1-31, 33, 34, and 37-49 are currently pending in the present application of which claims 5, 9-13, 16-18, 20, 21, 26, 27, 29, 33, and 40-43 have been withdrawn from consideration. Claims 1-4, 6-8, 14, 15, 19, 22-25, 28, 30, 31, 34, 37-39, and 44-49 have been rejected. Applicants have amended the specification solely to insert headers into the text of the specification. Claims 38 and 46 have been cancelled and claim 6 has been amended, incorporating the features recited in cancelled claims 38 and 46. Claim 19 has been amended to recite that the at least one locking member includes an engagement feature which engages over a rim of the cover in the locked position. No new matter has been added. Applicants point out that the amendments made herein are made without prejudice to the future prosecution of such cancelled, amended or modified subject matter in a related divisional, continuation or continuation-in-part application. In view of the above amendments and the following remarks, applicants respectfully submit that the pending rejections be withdrawn, and that the pending claims are now in condition for allowance.

II. ELECTION/RESTRICTIONS

The Examiner has maintained his requirement to elect a single species to which the claims shall be restricted if no generic claims is finally held to be allowable. Applicants elected with traverse the species of Figures 1-3A. Applicants note that accordingly the Examiner has withdrawn claims 5, 9-13, 16-18, 20, 21, 26, 27, 29, 33, and 40-43 from further consideration. Applicants maintain that the election of species requirement is improper as none of the prior art discloses a paint container with a locking member which passes over the rim of the container/cover, and therefore all of the claims are unified by this distinction over the prior art. For this reason applicants request withdrawal of the election of species requirement and the examination of all the pending claims.

III. OBJECTIONS TO THE SPECIFICATION

The Examiner has objected to the specification because according to the Examiner the current specification does not use appropriate headers. Applicants have amended the specification solely to insert the headers "Cross-Reference to Related Applications," "Background of the Invention," "Summary of the Invention," "Brief Description of the Drawings," and "Detailed Description of Embodiments of the Invention." No new matter has been added by these amendments. Withdrawal of the objection is respectfully requested.

IV. OBJECTIONS TO THE CLAIMS

The Examiner has objected to claim 19, as being of improper dependent form for failing to limit the subject matter of a previous claim. According to the Examiner all limitations of claim 19 appear to be in independent claim 1. Claim 19 has been amended wherein the recitation of "and/or the rim of the container" has been deleted from the claim. Claim 19 is now directed to "a container assembly according to claim 1 in which the at least one locking member includes an engagement feature which engages over a rim of the cover in the locked position." Withdrawal of the objection is respectfully requested.

V. REJECTIONS OF CLAIMS UNDER 35 U.S.C. §102

A. Claims 1-4, 14, 15, 19, 22, 28, and 37 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by US Patent No. 3,416,701 (Kramer et al.). According to the Examiner Kramer et al. teaches a container having a peripheral wall defining a rim (unlabeled but clearly shown), and a cover, with the assembly being provided with at least one locking member that is hingeable between a locked and unlocked position having a locking member engaging a corresponding locking feature on the assembly in the locked position, and which passes over the rim of the contained and cover, between locked and unlocked positions.

In response applicants submit that Kramer et al. fails to disclose every element of the claimed invention. The currently claimed invention requires a container assembly comprising a paint container and a cover, wherein the cover is provided for releasably closing the opening, the assembly being provided with at least one locking member that is hingeable between an unlocked position and a locked position, the at least one locking member having a locking member engagement feature which engages with a corresponding engagement feature on the assembly in the locked position to lock the cover to the container, in which the locking member passes over the rim of the container or a rim of the cover as the locking member hinges between the unlocked and locked positions such that the locking member locks onto the container rim.

One of the problems associated with paint containers relates to easy removal of the lid from the main body of the container. This has been a known problem for many years. The currently claimed container assembly addresses this issue by providing a paint container with a lid as in the currently claimed invention.

Kramer et al. describes a portable chest, such as a picnic or camping chest. This is in a technical field that is remote from the field of paint containers, and the issues associated with paint containers. Kramer et al. fails to disclose a paint container as defined in the currently claimed invention. In fact the portable chest disclosed in Kramer et al. is not suitable as a paint container. More specifically, the cited reference fails to disclose a paint container with cover, wherein the cover is provided for releasably closing the opening with at least one locking member that is hingeable between an unlocked position and a locked position, the at least one locking member having a locking member engagement feature which engages with a corresponding engagement feature in the locked position to lock the cover to the container.

For at least these reasons applicants submit that Kramer et al. fails to disclose every element of the claimed invention. Accordingly, Applicants respectfully request withdrawal of the rejections of claims 1-4, 14, 15, 19, 22, 28, and 37 as allegedly being anticipated by Kramer et al.

B. Claims 1-4, 6-8, 15, 19, 22, 24, 25, 28, 30, 31, 37-39, 45, 46, 48, and 49 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by US Patent No. 5,695,087 (Tutton et al.). According to the Examiner Tutton et al. teaches a container having a peripheral wall defining a rim and a cover, with the assembly being provided with at least one locking member that is hingeable between a locked and unlocked position having a locking member engaging a corresponding locking feature on the assembly in the locked position, and which passes over the rim of the container and cover, between the locked and unlocked positions.

In response applicants submit that Tutton et al. fails to disclose every element of the claimed invention. The currently claimed invention requires a container assembly comprising a paint container and a cover, wherein the cover is provided for releasably closing the opening, the assembly being provided with at least one locking member that is hingeable between an unlocked position and a locked position, the at least one locking member having a locking member engagement feature which engages with a corresponding engagement feature on the assembly in the locked position to lock the cover to the container, in which the locking member passes over the rim of the container or a rim of the cover as the locking member hinges between the unlocked and locked positions such that the locking member locks onto the container rim.

In addition, the claimed invention in independent claim 6, requires that the at least one locking member has a locking member engagement feature which engages over a rim of the cover, the rim of the container or both in the locked position with a corresponding engagement feature on the cover, the container, or both of the assembly in the locked position to lock the cover to the container, in which the locking member hinges upwardly from the unlocked to the locked position, and further wherein the cover has a closing surface for closing the opening of the container, and a skirt depending from the closing surface, the at least one locking member being hingeably connected to the skirt. The claimed invention in independent claim 34 requires such closure arrangement for a paint container, wherein the container has a peripheral wall defining a rim enclosing an opening at one end thereof, the peripheral wall having at least one outwardly-directed projection extending at least partially around the outer surface of the wall adjacent the opening.

As discussed above, one of the problems associated with paint containers relates to easy removal of the lid from the main body of the container. This has been a known problem for many years. The currently claimed container assembly addresses this issue by providing a paint container with a lid as in the currently claimed invention.

As Kramer et al. does not describe a paint container, Tutton et al. likewise does not describe a paint container. For this reason alone the claimed invention is not disclosed by Tutton et al. In addition, with reference to Figures 5 and 6 in the cited reference, it can clearly be seen that the locking member 34 does not pass over the rim of the cover 10, in fact the locking member 34 locates inside an aperture 32 which sits below the rim of the cover. Contrary to the requirement in the currently claimed invention, the locking member in the cited reference also does not pass over the rim of the container as can be seen in Figure 5 where the container 14 can clearly be seen inboard of the locking member. Neither does Tutton et al. disclose a skirt depending from the closing surface, and the at least one locking member being hingeably connected to the skirt. Accordingly, Tutton et al. fails to disclose the claimed invention.

For at least these reasons applicants submit that Tutton et al. fails to disclose every element of the claimed invention. Accordingly, Applicants respectfully request withdrawal of the rejections of claims 1-4, 6-8, 15, 19, 22, 24, 25, 28, 30, 31, 37-39, 45, 46, 48, and 49 as allegedly being anticipated by Tutton et al.

C. Claims 1-4, 6, 14, 19, 22-24, 37, 44, and 46-48 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by US Patent No. 2,129,250 (Varker). According to the Examiner Varker teaches a container having a peripheral wall defining a rim and a cover, with the assembly being provided with at least one locking member that is hingeable between a locked and unlocked position having a locking member engaging a corresponding locking feature on the assembly in the locked position, and which passes over the rim of the container and cover, between the locked and unlocked positions.

In response applicants submit that Varker fails to disclose every element of the claimed invention. The currently claimed invention requires a container assembly comprising a paint container and a cover, wherein the cover is provided for releasably closing the opening, the assembly being provided with at least one locking member that is hingeable between an unlocked position and a locked position, the at least one locking member having a locking member engagement feature which engages with a corresponding engagement feature on the assembly in the locked position to lock the cover to the container, in which the locking member passes over the rim of the container or a rim of the cover as the locking member hinges between the unlocked and locked positions such that the locking member locks onto the container rim.

In addition, the claimed invention in independent claim 6, requires that the at least one locking member has a locking member engagement feature which engages over a rim of the cover, the rim of the container or both in the locked position with a corresponding engagement feature on the cover, the container, or both of the assembly in the locked position to lock the cover to the container, in which the locking member hinges upwardly from the unlocked to the locked position, and further wherein the cover has a closing surface for closing the opening of the container, and a skirt depending from the closing surface, the at least one locking member being hingeably connected to the skirt.

As discussed above, one of the problems associated with paint containers relates to easy removal of the lid from the main body of the container. This has been a known problem for many years. The currently claimed container assembly addresses this issue by providing a paint container with a lid as in the currently claimed invention.

Varker also does not describe a paint container as required in the currently claimed invention. In fact the nothing indicates that the container in Varker is suitable as a paint container. More specifically, the cited reference fails to disclose a paint container with cover, wherein the cover is provided for releasably closing the opening with at least one locking member that is hingeable between an unlocked position and a locked position, the at least one locking member having a locking

member engagement feature which engages with a corresponding engagement feature in the locked position to lock the cover to the container. Nor does Varker disclose an assembly of a paint container and a cover wherein the locking member passes over the rim of the container or a rim of the cover as the locking member hinges between the unlocked and locked positions such that the locking member locks onto the container rim.

With respect to claim 6, applicants note that the features as in claims 38 and 46 were incorporated into this claim. According to the Examiner these features in the claimed invention are not anticipated by Varker as these claims were not rejection over Varker. In fact the Examiner correctly acknowledged that Varker does not disclose that the locking member engagement feature passes over the rim of the container or cover or both and also does not disclose a skirt depending from the closing surface, and the at least one locking member being hingeably connected to the skirt. Applicants submit that for this additional reason the claimed invention in claim 6 is not anticipated by Varker.

For at least these reasons applicants submit that Varker fails to disclose every element of the claimed invention. Accordingly, Applicants respectfully request withdrawal of the rejections of claims 1-4, 6, 14, 19, 22-24, 37, 44, and 46-48 as allegedly being anticipated by Varker.

VI. CONCLUSION

Applicants respectfully submit that the pending claims are in condition for allowance and request that such action be taken. If for any reason the Examiner believes that prosecution of this application would be advanced by contact with the Applicants' attorney, the Examiner is invited to contact the undersigned at the telephone number given below.

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